



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

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DECISION OF THE BOARD

Mailed and Filed: DECEMBER 13, 2022

IN THE MATTER OF:

Appeal Board No. 625638

PRESENT: GERALDINE A. REILLY, MEMBER

The Department of Labor issued the initial determination disqualifying the claimant from receiving benefits, effective January 29, 2022, on the basis that the claimant voluntarily separated from employment without good cause. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There were appearances by the claimant and on behalf of the employer. By decision filed September 2, 2022 (), the Administrative Law Judge sustained the initial determination.

The claimant appealed the Judge's decision to the Appeal Board. The Board considered the arguments contained in the written statement submitted on behalf of the claimant.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: The claimant worked as a medical receptionist from December 29, 2021 through January 28, 2022. To give her enough work for a full-time job, the employer also assigned her to perform certain cleaning tasks. The claimant spent her first two weeks in training, watching videos. Once the claimant finished training and started working, she had trouble learning to use the employer's computers and other office equipment. A nurse volunteered to help the claimant learn to use these items, but the claimant felt she was not getting enough experience to work with and learn to use these machines because the doctor saw patients only on Mondays, Tuesdays and Wednesdays.

On January 25 or 26, the claimant suggested that she be assigned to perform only non-receptionist tasks. She asked to be assigned just to cleaning, and for the doctor to hire someone else to work as a part-time receptionist on Monday, Tuesday and Wednesday. The doctor did not need a full-time cleaner in addition to a part-time receptionist.

Separately, the claimant's mother was in a nursing home and in declining health. On Monday, January 31, 2022, the claimant took her mother to a doctor's appointment. The claimant was at the nursing home when the doctor called her on the phone that afternoon. At some point during the conversation, the doctor said, "this isn't working out." The doctor did not say the claimant was fired. The claimant did not ask the doctor whether she still had a job or not. The claimant did not report for work as scheduled the next day. Continuing work was available.

OPINION: The credible evidence establishes that the claimant stopped reporting to work at the employer's medical office after she spoke with the doctor on January 31, 2022 and the doctor commented that "this isn't working out." Significantly, the doctor did not tell the claimant that she was fired. The claimant also did not ask the doctor to clarify whether she was fired or not. At the hearing, the claimant was questioned regarding the context in which the doctor made his comment, and the claimant acknowledged that she does not remember anything else the doctor said in that phone conversation, and she remembers little about the conversation in general. Meanwhile, the doctor credibly testified that continuing work was available to the claimant. On this record, we find that the claimant was not fired and did not have a reasonable belief she was fired. The claimant does not contend she had good cause to quit. Accordingly, we conclude that the claimant voluntarily separated from employment without good cause, and the claimant is disqualified from benefits.

DECISION: The decision of the Administrative Law Judge is affirmed.

The initial determination, disqualifying the claimant from receiving benefits, effective January 29, 2022, on the basis that the claimant voluntarily separated from employment without good cause, is sustained.

The claimant is denied benefits with respect to the issues decided herein.

GERALDINE A. REILLY, MEMBER